

SENATE BILL REPORT

SB 5206

As Reported by Senate Committee On:
Economic Development, Trade & Innovation, February 12, 2009

Title: An act relating to modifying the electrolytic processing business tax exemption.

Brief Description: Modifying the electrolytic processing business tax exemption.

Sponsors: Senators Hatfield, Holmquist, Sheldon and Zarelli.

Brief History:

Committee Activity: Economic Development, Trade & Innovation: 1/26/09, 2/12/09 [DP-WM].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TRADE & INNOVATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli, Ranking Minority Member; Delvin, Eide, Kilmer and McCaslin.

Staff: Philip Brady (786-7460)

Background: Public and privately owned utilities are subject to the state public utility tax (PUT), which is applied to the gross receipts of a utility at 3.873 percent. The PUT allows deductions and credits for some types of business activities, including wholesale sales and retail sales of electricity to direct service industrial businesses. Direct service industrial customers (DSIs) are certain manufacturers, mostly smelters, with large electricity requirements that purchase their electricity directly from the Bonneville Power Administration. Industrial electrolytic chemical businesses also use significant amounts of electricity in their chemical processing operations but are generally not DSIs. Their electricity is purchased from a local electric utility. The local utility is subject to the PUT, and the increased costs are passed along to the chemical businesses through utility rates.

In 2004 the Legislature exempted income from the sale of electricity to chlor-alkali and sodium chlorate chemical businesses from the PUT if the sales contract includes certain conditions: 1) chemical processing electrical usage is metered separately; 2) the price of the electricity used in the chemical processing is reduced by the amount of the tax exemption; and 3) the chemical business has to pay the PUT if the exemption is disallowed. Chemical businesses taking advantage of the PUT exemption must submit yearly reports to the

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Department of Revenue detailing the amount of the exemption and related employment information. The fiscal committees of the House of Representatives and Senate must study the effectiveness of the tax incentive regarding job creation and other factors. The exemption applies only to sales of power made before June 30, 2010, and will expire January 1, 2011.

Summary of Bill: The PUT exemption on sales of electricity to chlor-alkali and sodium chlorate chemical businesses will apply to sales of power made after June 30, 2010, and does not expire January 1, 2011. The statutory goals of the tax exemption are amended to include ensuring that electrolytic processing businesses in Washington remain competitive and to remove reference to an anticipated reduction of energy costs.

The fiscal committees of the Senate and House of Representatives will no longer examine and report on the effectiveness of the PUT exemption. Responsibility for scheduling examination and reporting is assigned to the Citizen Commission for Performance Measurement of Tax Preferences. The Joint Legislative Audit and Review Committee is directed to study and report on the effect of the incentive on job retention for Washington residents in addition to its other study obligations under statute.

Appropriation: None.

Fiscal Note: Requested on January 22, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This exemption is a proven method of economic stimulus. These companies provide family wage jobs, and it is important to give them some certainty of their future electricity costs in order to encourage investment. Electricity is a raw material for electrolytic companies the same way it is for aluminum smelters, who are exempt without a sunset provision. This program results in direct savings for good employers in regions impacted by a weak economy. The North American electrolysis market is flat or decreasing, so anything that provides a competitive edge is important.

Persons Testifying: PRO: Senator Hatfield, prime sponsor; Senator Holmquist; Tim Boyd, Eka Chemicals & Equa-Chlor; Calvin Greene, Eka Chemicals Inc.; Tim Root, Equal-Chlor, LLC.